

REMARKS

The present Amendment is in response to the Examiner's Final Office Action. Claims 10-21 are cancelled, claims 1, 3, and 4 are amended, and new claims 22 and 23 are added. Claims 1-9, 22, and 23 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. GENERAL CONSIDERATIONS

A. Claim Amendments and/or Cancellations

With particular reference to the claim amendments, Applicants note that while claims 1, 3, and 4 have been amended herein, and claims 10-21 have been canceled, such amendments and cancellation have been made in the interest of expediting the allowance of this case. Notwithstanding, Applicants, may, on further consideration, determine that claims of broader scope than those now presented are supported. Accordingly, Applicants hereby reserve the right to file one or more continuing applications with claims broader in scope than the claims now presented.

Consistent with the points set forth above, Applicants submit that neither the claim amendments set forth herein, nor any other claim amendments, claim cancellations or statements advanced by the Applicants in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

B. Remarks

Applicants respectfully note that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicants have broad discretion in terms of the identification and consideration of the base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the

discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration by the Applicants, in this case or any other, of additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

Applicants note as well that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teachings and purported prior art status of the cited references at any appropriate time.

II. PRIOR ART REJECTIONS

A. Rejection Under 35 U.S.C. §102(b)

The Examiner rejects claims 1-2, 4-5 under 35 U.S.C. § 102(b) as being anticipated by *Anderson et al.* (United States Patent No. 5,850,388). Applicants respectfully disagree. However, in light of the following remarks the rejection is rendered moot and should be withdrawn.

Claim 1 has been amended to recite, among other things: "displaying average values of network analysis information based upon the initial states and the network topology to the user; and adjusting the sample duration window to display individual values of the network analysis information." Support for the amendments to claim 1 may be found, for example, at least in paragraphs [083] and [0261] of the application. In contrast, the Examiner has not established that the prior art describes the aforementioned limitation in combination with the other limitations of claim 1.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 102(b) be withdrawn.

B. Rejection Under 35 U.S.C. § 103

The Examiner rejects claims 3, 6-9 under 35 U.S.C. § 103 as being unpatentable over *Anderson et al.* (U.S. Patent No. 5,850,388) and further in view of *Garg et al.* (U.S. Patent No. 6,327,677). Applicants respectfully disagree. However, in light of the following remarks the rejection is rendered moot and should be withdrawn.

By virtue of their dependence from claim 1, claims 3 and 6-9 each recite the limitations discussed above with respect to claim 1. Therefore, inasmuch as the Examiner has not established that the prior art teaches or suggests the aforementioned limitations in combination with the other limitations of claim 1 no prima facie case of obviousness has been established with respect to claims 3 and 6-9. Accordingly, Applicants respectfully submit that the rejection under section 103 has been rendered moot and should be withdrawn.

III. NEW CLAIMS 22 AND 23

By the amendment, Applicants have added new claims 22 and 23. Support for new claim 22 may be found, for example, at least in paragraphs [0138] and [0139] of the application and support for new claim 23 may be found, for example, at least in paragraphs [0128] and [0265] of the application.

CONCLUSION

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 15th day of July, 2008.

Respectfully submitted,

/Ronald J. Ward/Reg. No. 54,870

RONALD J. WARD

Registration No. 54,870

ERIC L. MASCHOFF

Registration No. 36,596

Attorneys for Applicant

Customer No. 022913

Telephone: (801) 533-9800

C:\NrPortbl\DMS\UPOGUE\1816827_1.DOC